

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DWIGHT HASSAD RASHAD,

Defendant-Appellant.

UNPUBLISHED

November 22, 2005

No. 255819

Wayne Circuit Court

LC No. 88-011275-01

Before: Smolenski, P.J., and Schuette and Borrello, JJ.

MEMORANDUM.

Defendant appeals as of right from a life sentence imposed on a jury conviction of possession of 650 or more grams of cocaine, MCL 333.7403(2)(a)(i). We affirm.

Defendant was convicted of the above offense in April 1989, and was sentenced to a prison term of forty to 100 years. On appeal, we affirmed defendant's conviction but remanded for resentencing in accordance with the statute in effect at the time the offense was committed. *People v Rashad*, unpublished opinion per curiam of the Court of Appeals, issued June 23, 1992 (Docket Nos. 118136, 118877, 124060). Defendant was not resentenced until May 2004, by which time the offense proscribed by MCL 333.7403(2)(a)(i) had been redefined and the punishment changed to life or any term of years. 2002 PA 665.

Defendant's sole claim on appeal is that he should have been sentenced under MCL 333.7403 as amended by 2002 PA 665. This issue has not been preserved because it was not raised before and decided by the trial court. *People v Connor*, 209 Mich App 419, 422; 531 NW2d 734 (1995). Therefore, defendant must establish plain error affecting his substantial rights to obtain relief. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999). Inasmuch as we have already determined that the sentencing provisions of 2002 PA 665 are not retroactive, *People v Doxey*, 263 Mich App 115, 122; 687 NW2d 360 (2004); *People v Thomas*, 260 Mich App 450, 457-459; 678 NW2d 631 (2004), defendant has not established plain error.

Affirmed.

/s/ Michael R. Smolenski

/s/ Bill Schuette

/s/ Stephen L. Borrello